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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/478,582	01/06/2000	TATSUMARO YAMASHITA	9281/3519	1875

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EXAMINER

DOLAN, JENNIFER M

ART UNIT	PAPER NUMBER
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2813

DATE MAILED: 06/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/478,582

Applicant(s)

YAMASHITA, TATSUMARO

Examiner

Jennifer M. Dolan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 January 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to because in figure 11, the length 'G' as shown, does not correspond to the description of figure 11 and creates ambiguity in the claims as to where the 'imaginary' arcuate portion is positioned. If all segments, 'J' are formed from a circle having a radius of 14 mm and a center C of the window, as described on page 9, then the distance 'G' as depicted in figure 11, must be larger than the 28 mm stated on page 10, since the 'imaginary' (dot-dash lined portion) arcuate portion forming an endpoint of G is translated 'upward' from the circle defining the arcuate portions 'J'. In order for the description of figure 11 and the figure to be in agreement, the 'imaginary' arcuate portion should connect directly to the two upper arcuate portions 'J'. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1 and 3-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claims 1 and 4, the applicant claims "arcuate portions each having a radii that intersects the rotational axis of said optical disk." This is indefinite, because an arcuate portion is merely a curve, and does not have a radius. Also, a radius could only

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intersect any given point if that point were the center point of the circle defined by the radius, which makes the claim language vague. For the purposes of examination, it is assumed that the arcuate portions are each formed as an arc segments of a circle, each circle centered on the rotational axis of the optical disk.

Additionally, claim 1 fails to distinctly claim the subject matter which applicant regards as the invention by failing to clearly delineate the position of the second (“upper”) arcuate portion of the clamping window. Since the clamping and read/write windows form one contiguous body, with only an ‘imaginary’ arcuate portion separating the two (see figure 11 of the present application), and since the claim fails to specify the termini and curvature of the ‘imaginary’ arc segment, the longitudinal length of the clamping window, as well as the general shape of the clamping window, are indefinite.

Response to Arguments

4. Applicant's arguments filed 12/26/02 have been fully considered but they are not persuasive.

The Applicant argues that the boundary between the reading/writing window and the clamping window has been clearly delineated in the claims. This is not persuasive, because the Applicant has failed to specify the exact positioning of each end of the second ‘imaginary’ arcuate portion (forming the boundary between the reading/writing window and the clamping window), as well as the curvature of the arcuate portion. The critical and novel feature of the invention depends upon a measurement between this ‘imaginary’ arcuate portion and a first arcuate portion, so it is crucial that the second arcuate portion be clearly defined, in order to

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distinguish the claims from the prior art of record as well as the Applicant's admitted prior art. Figure 11 of the present application, for example, reinforces the idea that the boundary between the clamping and reading/writing windows is arbitrarily placed, because the boundary (dot-dash arcuate segment) is not directly connected to the linear segments, nor the arcuate segments (upper, small segments J), and does not appear to be a segment of the same circle as the remaining arcuate portions.

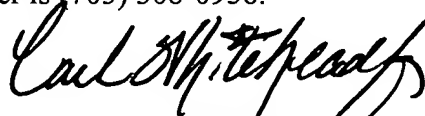
It is respectfully suggested that the perimeter of the clamping window could be claimed as comprising a pair of opposing linear portions connected between a pair of opposing arcuate portions, the arcuate portions being arc segments of the same circle, the circle centered at the rotational axis of the disk; and that the lateral width of the clamping window is shorter than the diameter of the circle.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer M. Dolan whose telephone number is (703) 305-3233. The examiner can normally be reached on Monday-Friday 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl W. Whitehead, Jr. can be reached on (703) 308-4940. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.


CARL WHITEHEAD, JR.
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

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Jennifer M. Dolan

Examiner

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jmd

June 6, 2003